

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**JASON GERLACH AND MANUEL
MAYORAL, ON BEHALF OF
THEMSELVES AND ALL OTHER
SIMILARLY SITUATED,**
Plaintiffs,

v.

**CONN APPLIANCES, INC., CONN'S
INC., AND CONN CREDIT CORP., INC.,**
Defendants.

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CIVIL ACTION NO. A-16-CA-00860-LY

PLAINTIFFS' MOTION TO DISMISS CLAIMS WITH PREJUDICE

TO THE HONORABLE JUDGE OF SAID COURT:

The Plaintiffs, JASON GERLACH and MANUEL MAYORAL, herein move the Court to dismiss their claims with prejudice pursuant to Fed Rule Civ. Pro. 41(a)(2).

MATERIAL FACTS

1. The Plaintiffs filed suit as a putative class action against the Defendants, CONN APPLIANCES, INC., CONN'S INC., AND CONN CREDIT CORP., INC., ("Conn's"). After discovery, it appears that while the putative Plaintiffs could possibly prevail on the merits of their class and individual claims, there is a high probability that they will not. Rather than continue with costly protracted certification efforts and additional discovery, Plaintiffs wish to dismiss their claims with prejudice to the refiling of the same.
2. After attempting to confer with Counsel for Conn's, the parties have been unable to reach a stipulation of dismissal, and clearly, a voluntary dismissal would not be appropriate. FRCP 41(a); *Bridgeport Music, Inc. v. Universal-MCA Music Publ'g*, 583 F.3d 948, 953 (6th Cir.2009). Therefore, pursuant to FRCP 41(a)(2), Plaintiffs respectfully request that this Court dismiss the claims of JASON GERLACH and MANUEL MAYORAL with prejudice.

PRAYER

WHEREFORE, Plaintiffs pray the Court, dismiss the claims of JASON GERLACH and MANUEL MAYORAL with prejudice to refiling of the same.

Respectfully submitted,

/s/ BRIAN J. TRENT

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 10, 2018, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following: Chris Jordan, Michael Harvey, Scott Goldsmith.

/s/ Brian J. Trenz_____
Brian J. Trenz